



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO
DISCLOSURE UNDER FOIA**

July 8, 2021

By Electronic Mail

Thomas Carroll
Acting Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: July Update to Response to April 24, 2020 Letter from the U.S. Environmental
Protection Agency

Dear Mr. Carroll:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter as the fourteenth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency (“EPA” or the “Agency”) regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information (“CBI”) and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.¹

¹ Certain attachments to this letter include CBI, which Birla has designated as such with the stamp “CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA.” Based on a review of relevant LDEQ regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to

Birla Carbon USA, Inc.

1800 West Oak Commons Court, Marietta, Georgia 30062-2253
T: (770)792-9400 | F: (770)792-9328 | W: www.birlacarbon.com

I. North Bend

Since our last update, construction was ongoing at North Bend for installation of equipment required under the Consent Decree.

Birla's vendor, [REDACTED], continues to estimate a two to four month delay for various components of the scrubber system. *See Confidential Attachments 1.* As discussed in our last update, the vendor for the reactor vent scrubber system is experiencing delays due to lack of access to manufacturing facilities in connection with poor weather conditions and COVID-19 restrictions in India. *See Confidential Attachment 1.* Moreover, late equipment deliveries and an inability to obtain raw materials have caused the vendor for the reactor vent scrubber system to estimate preparing the system for shipment via ocean vessel to the U.S. on October 10, 2021. *See Confidential Attachments 1 and 2.*

The heat recovery steam generation ("HRSG") boiler was delayed nearly two months from the original delivery date. *See Confidential Attachment 1.* Delivery was made on March 4, 2021, and the equipment is currently being moved into place.

A [REDACTED] had to be sourced from a new vendor, [REDACTED], following [REDACTED]' notification that due to the death of its company principal and COVID-19 related issues, it would not be able to complete its contract and deliver the [REDACTED] due for delivery on April 1, 2021. *See Confidential Attachment 1.* [REDACTED] delivered the [REDACTED] in June 2021, a nearly two-month delay over the original delivery date of April 1, 2021. *See Confidential Attachment 1.*

In our last update, Birla was experiencing delays in obtaining a barge for shipment near the manufacturing location to North Bend. However, the wet gas scrubber was loaded onto a barge on June 1, 2021 and arrived at North Bend on June 8, 2021. *See Attachment 4.*

The projected target completion date for the SCR and seawater scrubber is still December 31, 2021. *See Confidential Attachment 1.* However, due to the delays in delivery of the reactor vent scrubber system, the current reactor vent scrubber completion date is estimated to be March 31, 2022. *See Confidential Attachment 1.* Although the system can run without the reactor vent scrubber system, there is potential for PM emissions during the period of Heat Load Operations. Birla will attempt to provide an updated projected target completion date in our next update following actual equipment deliveries. Subject to the update, the final commissioning is anticipated to take place sometime in December 2021 with the Continuous Emissions Monitoring System ("CEMS") being certified around December 31, 2021.

II. Hickok

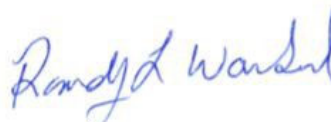
Since our last update, Hickok is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

We have no further updates for Hickok at this time.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Lisa Gotto, U.S. EPA Region 7 (by email)
Lisa Hanlon, U.S. EPA Region 7 (by email)
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
Deidre Johnson, LDEQ (by FedEx)
David Buente, Sidley Austin LLP (by email)
Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021-07-06 - North Bend - Letter from Engineer of Record
Confidential Attachment 2 - 2021-06-30 - North Bend - Reactor Vent Scrubber Update
Confidential Attachment 3 - 2021-06-30 - North Bend - Delay Schedule Chart
Attachment 4 - 2021-06-08 - North Bend - Photos of Wet Gas Scrubber

CONFIDENTIAL ATTACHMENT 1

2021-07-06 - North Bend -
Letter from Engineer of Record

Attn: Mark B. Vannice, PE, Project Director
Birla Carbon USA, Inc.
Regional Office Marietta
1800 West Oak Commons Ct
Marietta, GA 30062

Letter: BC-016

Re: Purchase Order No. 2300002188; Notice of Force Majeure Event Update – Status as of July 1st, 2021

Dear Mr. Vannice:

Reference is made the above Purchase Order and the Professional Services Terms and Conditions (Agreement) and Letters BC-001 dated May 13th, 2020 and BC-002 dated June 17th, 2020. Terms not otherwise defined herein shall have the meaning assigned to them in the Agreement.

In accordance with Article 12(a) of the Agreement Engineer is providing Owner an update to the Force Majeure Event notice of May 13th, 2020. The Force Majeure Event is primarily the domino effect of uncontrolled delays and disruption of the global supply chain the Owner is experiencing from its Vendors supplying material and equipment to the Facility project; and secondarily the potential delay caused by disruptions in the available services to, and mobility of, Engineers' staff. The delays and disruptions to the supply chain as we are informed by notices from the Vendors to you are caused by impacts of the COVID-19 epidemic on the manufacture of materials and equipment. These delays are outside the control and without the fault of Engineer. To the extent these delays experienced by the Vendors affects the timely delivery of our Work that depends on inputs of information and ultimately delivery to the Facility in accordance with the Schedule, we are, or likely will be, seeking extensions on the Schedule for a time reasonably necessary to overcome the effect of the delay and additional compensation as appropriate. We are to the extent possible undertaking reasonable measures to make up for time lost caused by the delay and assisting Owner, to the extent possible, mitigating Vendor impacts.

July 6th , 2021
Mr. Mark Vannice
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As of June 2nd , we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2nd, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of [REDACTED] equipment are directly affecting the project schedule. Currently we are still awaiting the Absorber Feed pumps, Absorber quench water pumps, FRP piping, and Aeration blowers; all of which are directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18th and 29th, 2021, causing a delay of the delivery of the HRSG until March 3rd. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], will deliver the skid in June of 2021, an approximate slip of more than two months over the original delivery date of April 1st.

Additionally, the entire North Bend plant was evacuated the week of August 24th, 2020 due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8th – 11th, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor [REDACTED] and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

The latest extreme weather event to impact the project were the record cold in February. The site was closed Feb 15th – 17th due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

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Mr. Mark Vannice
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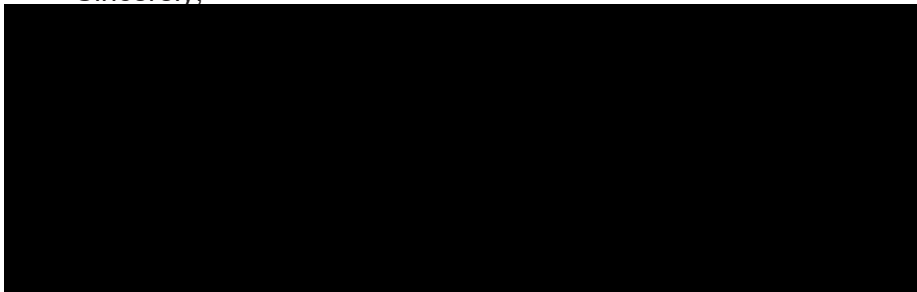
After incorporating all the known FM delays and impacts into the project schedule, the completion date for the AQCS upgrade project is December 31st , 2021. After the July 1st update, the startup schedule was reviewed in detail and additional tuning and hot commissioning were added as the durations were not adequate to complete the scope.

The vent scrubber project is experiencing delays due to late equipment deliveries. The scrubbers provided by [REDACTED] are being impacted the Covid 19 pandemic in India. Current ship date from India is October 1, 2021. The current estimated Vent Scrubber completion date is 3/31/21. However, this date is fluid until all equipment deliveries can be confirmed.

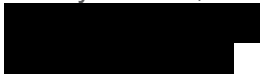
We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,



cc: Randy Waskul, Birla



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CONFIDENTIAL ATTACHMENT 2

2021-06-30 - North Bend -
Reactor Vent Scrubber Update

STATUS UPDATE - [REDACTED] SCRUBBERS

PO No. 2300002757 dt. 05.04.2021

A. Engineering & Drawings**I. Submission to Birla Carbon:**

- i. Drawing submission completed.
- ii. Approvals/manufacturing clearance received dtd 03.06.2021

II. Preparation of Manufacturing Drawings:

- i. Scrubber for Speciality Unit: 80% manufacturing drawings have been completed. Balance drawings shall completed by 5th July.
- ii. Scrubber for Rubber Unit: Manufacturing drawings have been taken up. Shall completed by 10th July.

B. Procurement of Raw Material & Bought Outs**I. Raw Material Procurement:****i. Scrubber for Rubber Unit:**

- 1. SS 317L Plate material (6, 8 & 16 thk) ordered, received, tested and accepted. TCs are attached.
- 2. SS 317L Plate material (20 thk) ordered. Expected to be received by 05-07-2021
- 3. SS 304 Plate material (12 & 16 thk) ordered, partly received. Balance material expected to be received by 5th July' 2021
- 4. SS 304 ANSI Flanges and Fittings ordered. Delivery expected by 10th August' 2021
- 5. SS 304 pipe procurement will be initiated by 10th July.

6. SS 317L Pipe pieces, ANSI Flanges & Fittings: Enquiry was given on 21st June. Due to prevailing volatile market condition and very small quantum, vendors have regretted for SS 317L & instead offered SS 316L. In view of urgency, we are going ahead with ANSI Flanges and fittings in SS 316L OR 18 thk Plate fabricated flanges in SS 317L.

➤ In case you have any comment on above change, kindly advise per return email. Else we are proceeding as above.

ii. **Scrubber for Speciality Unit:**

1. SS 316L Plate material (6 thk) ordered. Expected to be received by 5th July.
2. SS 316L Flat material (16 thk) ordered. Expected to be received by 5th July.
3. SS 304 Plate material (12 & 16 thk) : Same as I.i.3 above
4. SS 304 ANSI Flanges and Fittings: Ordered. Delivery expected by 10th August.
5. SS 304 / SS 316 pipe procurement will be initiated by 10th July.
6. SS 316L, ANSI Flanges & Fittings: Ordered. Delivery expected by 10th August.

II. Bought out Items:

- i. Spray Nozzles – Orders Finalised & released. [REDACTED] Committed Delivery is 25th August.
- ii. Actuators– [REDACTED] committed Delivery is 30th August.
- iii. Actuated ball valves – Order Finalised & released. [REDACTED] Committed Delivery is 30th August
- iv. Other valves, fittings & miscellaneous items – Order of Major items finalized. Balance ordering will be completed by 15th July.

C. Manufacturing:

- I. Laser cutting / CNC cutting planned to commence from 3rd July. Will be completed progressively by 20th July
- II. Rolling / Pressing of Shell, Cone, Flanges etc planned to commence from 3rd July. Will be completed progressively by 30th July.
- III. Estimated Manufacturing period: July – September 2021

D. Packing & Shipment

- I. Estimated shipment : 10th October 2021
- II. Estimated containers :
 - 40 Feet Flat rack container – 1 No
 - 40 Feet standard container – 1 No
 - 20 Feet standard container – 1 No

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CONFIDENTIAL ATTACHMENT 3

2021-06-30 - North Bend -
Delay Schedule Chart

Equipment Piece	Equipment #	Delivery Date
■ Steel Platforms		■ B475 Load 1 Delivered 6/14/2021 ■ B475 Load 2 Delivered 6/17/2021
Aeration Blowers with Sound Enclosures	95-9C-13-003-02A	■ Shipping from ■ (One day transit time) First Blower and Sound Enclosure ready for shipment 7/14/2021, Second Blower and Sound Enclosure ready for shipment 7/21/2021
Absorber Feed Pumps	95-9C-11-003-07A	■ Informed Motors were damaged in shipping. ■'s observation is that the damage is from hold down ties. The motors have been sent to the ■ - report pending 6/18/2021. Retest of the pumps 6/25/2021 – with expected ship date of
Duct Burner 1	95-9B-15-001-02	■ has not confirmed delivery schedule.
Duct Burner Support Steel		Scheduled to ship from ■ 6/25/2021
■ Sootblowers	95-9B-13-001-17A	Inspected 6/3/21, Required repainting ■ to confirm ship date – tentative 6/21/2021 from ■ – Delivery Birla Jobsite 6/23/2021.
Pressure Reducing Station and Thermal Drain System		■ 7/1/2021, Ship from ■ 7/6/21, Delivery 7/8-9/2021
Absorber Carbon Steel Piping		7/12/2021
■ 1 Internals		Have been delivered to site.
■ 1 Duct Mixing Devices, Turning Vanes, etc.		217 Load M15 Shipping from ■ 6/14/2021, scheduled arrival 6/15/2021

ATTACHMENT 4

2021-06-08 - North Bend -
Photos of Wet Gas Scrubber



























